
Public Utilities Commission of the State of California

Results of Public Agenda 3136

Meeting Held on Thursday, July 8, 2004 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <i>Closed to the Public</i>	<i>Commission Meeting</i> Auditorium (10 a.m.) <i>Open to the Public</i>
Monday, September 20, 2004 (San Francisco)	Thursday, September 02, 2004 (San Francisco)
Monday, October 04, 2004 (San Francisco)	Thursday, September 23, 2004 (San Francisco)
Monday, October 25, 2004 (San Francisco)	Thursday, October 07, 2004 (San Francisco)
	Thursday, October 28, 2004 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
-

Public Comment:

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Orders and Resolutions

1 **Res W-4470 - Del Oro Water Company (DOWC), Lime Saddle District.**

[3468] This resolution authorizes DOWC, Lime Saddle District a surcharge of \$2.17 per month per customer for five years producing an annual increase in revenue of \$11,889 for a total of \$59,444 to recover legal expenses. (Advice Letter (AL) 126, filed December 24, 2003, and Supplemental AL 126-A, filed April 8, 2004)

Agenda 3133, Item 15 5/6/2004 (Staff);

Agenda 3134, Item 11 5/27/2004 (Staff);

Agenda 3135, Item 4 6/9/2004 (Lynch)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

2 **Res ALJ 176-3136**

[3537] Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

3

[3530]

A00-12-015 - California Association of Competitive Telecommunications Carriers.

This decision approves in part the Competitive Local Exchange Carriers' request for advice letter treatment of Sections 851 through 854 matters. This proceeding is closed.

(Comr Lynch - ALJ Galvin)

Agenda 3135, Item 6 6/9/2004 (Kennedy)

Outcome Held (9/2/04, Regular Agenda. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

4

[3552]

R02-06-041 - Order Instituting Rulemaking to require California natural gas and electric utilities to preserve interstate pipeline capacity to California.

This decision grants in part and denies in part the motion to accept a late-filed notice of intent (NOI) to claim compensation by The Utility Reform Network (TURN). This decision denies TURN's concurrent request for an award of \$32,810.41 related to D04-01-047 because TURN did not timely file its NOI, and its motion comes after the proceeding was closed and more than 17 months after the due date for the NOI. However, the decision grants compensation in the amount of \$12,846.25 for TURN's work that made a substantial contribution to D02-07-037 and D03-04-061 because no prehearing conference was held relating to the issues addressed in these decisions. This proceeding is closed.

(Comr Lynch - ALJ Brown)

Agenda 3135, Item 9 6/9/2004 (Staff)

Outcome Held (8/19/04, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

5

[3587]

A03-04-032 - Arrowhead Manor Water Company, Inc. (Arrowhead).

Arrowhead, a privately owned water utility in Cedar Glen, California, serving approximately 500 customers, filed this application on April 25, 2003, seeking to sell and transfer ownership of the company to Rio Plaza Water Company, Inc. The Commission's Water Division now moves for dismissal of the application on grounds that Arrowhead is in receivership, with disposition of its assets subject to the direction of the San Bernardino County Superior Court. The motion to dismiss, which is unopposed, is granted, without prejudice to refiling if circumstances so warrant. This proceeding is closed.

(Comr Peevey - ALJ Walker)

Outcome Signed

[D04-07-004](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

6

[3589]

C04-02-024 - Wayne Ricky Elson Rudder and Myrtle Rudder Johnson vs. MCI WorldCom Communications, Inc.

This decision dismisses the complaint for failure to show a violation of law or order upon which the Commission can grant relief. This proceeding is closed.

(Comr Lynch - ALJ Bushey)

Outcome Signed

[D04-07-005](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

7

[3593]

I00-08-002 - Order Instituting Investigation into the functioning of the wholesale electric market and associated impact on retail rates.

This decision closes this proceeding.

(Comr Wood - ALJ Wetzell)

Outcome Held (8/19/04, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

8

[3594]

Res E-3870 - Pacific Gas and Electric Company (PG&E).

This resolution approves PG&E Amendment No. 7 of the Qualified Decommissioning Trust Agreement and Amendment No. 4 of the Non-qualified Decommissioning Trust Agreement. (Advice Letter 2503-E, filed April 30, 2004)

Agenda 3135, Item 12 6/9/2004 (Lynch)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

9

[3600]

Res W-4477 - California Water Service Company (CWSC).

CWSC - Bakersfield, Bear Gulch, Chico, Dixon, Dominguez-South Bay, East Los Angeles, Hermosa-Redondo, King City, Livermore, Los Altos, Marysville, Mid-Peninsula, Salinas, Selma, South San Francisco, Stockton, Palos Verdes, Westlake, Willows, Visalia Districts - Resolution recording status of reserve account recovery filings and results of earnings tests. (Advice Letter (AL) 1622 and AL 1624, filed March 25, 2004, and AL 1642, AL 1643, AL 1647, AL 1648, AL 1649, and AL 1650, filed April 1, 2004)

Agenda 3135, Item 17 6/9/2004 (Staff)

Outcome Held (8/19/04, Regular Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

10

[3607]

C03-07-031 - Pacific Gas and Electric Company (PG&E) vs. Calpine Corporation, CPN Pipeline Company, Calpine Energy Services, L.P., Calpine Natural Gas Company, and Lodi Gas Storage, LLC.

This decision approves a settlement between PG&E, complainant, and defendants Lodi Gas Storage, LLC, Calpine Corporation, CPN Pipeline Company, Calpine Energy Services, L.P., and Calpine Natural Gas Company. The terms of the settlement provide that PG&E will dismiss the complaint in exchange for payments and other agreements by defendant. The Commission finds the settlement meets all of the Commission's requirements, and should be approved. This proceeding is closed.

(Comr Brown - ALJ Thomas)

Outcome Signed

[D04-07-006](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

11

[3608]

A00-05-034 - Pacific Gas and Electric Company (PG&E).

This decision dismisses PG&E's application to market value its Humboldt Bay Power Plant non-nuclear fossil units for the reason that the application is moot. This proceeding is closed.
(Comr Lynch - ALJ Patrick)

Outcome Signed[D04-07-007](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

12

[3620]

A04-01-014 - City of Sacramento.

This decision grants the application of the City of Sacramento to relocate the existing crossing at 12th and 16th Streets 200 feet to the east in the City and County of Sacramento. This proceeding is closed.
(Exam Clark)

Outcome Signed[D04-07-008](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

13

[3621]

A02-11-048 - Great Oaks Water Company (Great Oaks).

Pursuant to the limited rehearing of D03-12-039 granted by D04-03-043, this decision approves Great Oaks' County Park Project, a maximum of \$448,280.90 for Test Year 2003, subject to Great Oaks filing an advice letter deviation. This proceeding is closed.
(Comr Brown - ALJ Grau)

Outcome Signed[D04-07-009](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

14

[3631]

A03-01-019 - Southern California Edison Company (SCE).

For authority to lower and adjust retail electric rates for all customer classes upon completion of full recovery of procurement related obligations account. Visalia Senior Housing dba Town Meadows (Petitioner) seeks modification of D03-07-029, SCE's most recent rate allocation decision on the ground that although it received its California Alternate Rates for Energy Program (CARE) discount, its rates increased. No other customers receiving the CARE discount had a rate increase. Held: Petition denied without prejudice. Petitioner should present its issue in the current SCE rate allocation proceeding. This proceeding is closed.

(Comr Brown - ALJ Barnett)

Outcome Held (8/19/04, Regular Agenda. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

15

[3632]

Res T-16842 - Pinnacles Telephone Company (Pinnacles).

Pinnacles has installed equipment that would allow its customers' Calling Party Number (CPNs) to be transmitted on calls between states. In order to ensure that Pinnacles' customers fully understand the privacy implication of CPN and Calling Party Number Identification Service, Pinnacles requests Commission authority to implement a Customer Notification and Education Plan. (Advice Letter 202, filed April 28, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

16

[3635]

A04-01-033 - Neutral Tandem-California, LLC (Applicant).

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications services. This proceeding is closed.

(Comr Kennedy - ALJ O'Donnell)

Outcome Signed

[D04-07-010](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

17

[3637]

Res T-16833

This resolution adopts a surcharge rate of 0.16% from the current rate of zero % for the California Teleconnect Fund program. The new surcharge rate is effective August 1, 2004.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

18

[3638]

R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.

This decision dismisses without prejudice the Petition to Modify Decision 04-01-050 filed by Western Power Trading Forum on May 14, 2004 and suspends the filing of responses to the petition.

(Comr Peevey - ALJ Walwyn)

Outcome Signed

[D04-07-011](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

19

[3639]

A04-01-012 - Network PTS, Inc. (Applicant).

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange, and limited facilities-based interexchange telecommunications services. Applicant was previously authorized to resell interexchange services.

This proceeding is closed.

(Comr Kennedy - ALJ O'Donnell)

Outcome Signed

[D04-07-012](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

20

[3648]

R04-02-006 - Rulemaking for purposes of implementing certain statutory requirements set forth in AB 1735 for extending the deadline for completing ratesetting or quasi-legislative proceedings.

AB 1735 (Pub. Util. Code §§1701.5 and 1701.6) allows the 18-month period for completing ratesetting and quasi-legislative proceeding to be extended (1) in the Scoping Memo, or (2) during the proceeding, by Commission order. This decision amends Rules of Practice and Procedure 77.7 to exempt the extension order from public review and comment, which would further delay the proceeding. This proceeding is closed.

(Comr Brown - ALJ Thorson)

Outcome Signed[D04-07-013](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

21

[3649]

A04-01-008 - TC Telephone LLC (Applicant).

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications services. This proceeding is closed.

(Comr Kennedy - ALJ O'Donnell)

Outcome Signed[D04-07-014](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

22

[3651]

A04-04-033 - Econodial, LLC (Applicant).

This decision grants Applicant a certificate of public convenience and necessity to provide resold and limited facilities-based local exchange telecommunications services within California. This proceeding is closed.

(Comr Kennedy - ALJ Galvin)

Outcome Held (8/19/04, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

23

[3655]

A03-10-053 - Los Angeles County Metropolitan Transportation Authority (MTA).

This decision grants MTA authority to construct the proposed two-track grade-separated crossing above and across tracks beneath the First Street Bridge as part of the Eastside Corridor Light Rail Transit Line project in the City of Los Angeles, Los Angeles County. This proceeding is closed. (Exam Clark)

Outcome Signed[D04-07-015](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

24

[3660]

Res W-4478 - Hillview Water Company (HWC).

This resolution authorizes HWC to implement Schedule No. 14.1, mandatory water conservation and rationing. (Advice Letter 74, filed May 24, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

25

[3661]

Res W-4479 - San Jose Water Company (SJWC).

This resolution authorizes SJWC an offset rate increase producing additional annual revenues of \$4,558,134 or 3.62% for increase in the cost of purchased water and pump tax. (Advice Letter 348, filed May 7, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

26

[3662]

Res W-4480 - Lake Alpine Water Company (LAWC).

LAWC's request to secure a loan in the amount of \$1,037,554, and to add a surcharge to water rates to repay the loan principal and interest. (Advice Letter 65, filed June 9, 2003)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

27

[3663]

A04-03-033 - California Water Service Company (Cal Water).

This decision authorizes Cal Water to issue \$250 million of common shares, preferred shares or debt securities. Debt issues of \$20 million or less are exempted from the Competitive Bidding Rule. This proceeding is closed.

(Exam Jackson)

Outcome Held (8/19/04, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

28

[3664]

A03-12-014 - Antelope Valley Bus, Inc. and CUSA CC, LLC dba Airport Bus of Bakerfield and Antelope Valley Bus.

This decision authorizes Antelope Valley Bus, Inc. to transfer its passenger stage corporation certificates to CUSA CC, LLC, dba Airport Bus of Bakerfield and Antelope Valley Bus. This proceeding is closed.

(Exam Clark)

Outcome Signed

[D04-07-016](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

29

[3665]

A04-02-025 - California Wine Tours, Inc. (Applicant).

This decision authorizes Applicant to extend its passenger stage corporation service to include the transportation of passengers and their baggage between Napa, Vallejo, and Sonoma, on the one hand, and Oakland International Airport, on the other hand. This proceeding is closed.

(Exam Clark)

Outcome Signed

[D04-07-017](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

30

[3666]

A04-04-020 - Aloysius Dimude and Caroline I. Okeke, dba Travelers Shuttle Express (Applicant).

This decision authorizes Applicant to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, and San Mateo Counties, on the one hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

Outcome Signed[D04-07-018](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

31

[3668]

I91-08-029 - Investigation on the Commission's own motion into the causes of recent derailments of Southern Pacific Transportation Company trains, compliance of Southern Pacific with applicable laws, rules and regulations, the existence of any local safety hazards, and recommendations for improvements in state and federal laws or regulations.

This decision closes docket upon finding that there are no further matters requiring it to remain open.

(Comr Kennedy - ALJ Weismehl)

Outcome Signed[D04-07-019](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

32

[3669]

Res W-4481 - Arrowhead Manor Water Company, Inc. (AMWC).

This resolution authorizes AMWC an offset rate increase of \$46,971 of 14.15% in additional revenue due to contract work and purchased water costs. (Advice Letter 57-W, filed March 1, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

- 33**
[3671] **Res T-16853 - Citizens Telecommunications Company of Tuolumne (CTC-Tuolumne).**
This resolution approves an Interconnection Agreement between CTC-Tuolumne and AT&T Wireless, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 149, filed April 29, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 34**
[3672] **Res T-16852 - Citizens Telecommunications Company of the Golden State (CTC-Golden State).**
This resolution approves an Interconnection Agreement between CTC-Golden State and AT&T Wireless, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 159, filed April 29, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 35**
[3673] **Res T-16849 - Citizens Telecommunications of California Inc. (CTC-California).**
This resolution approves an Interconnection Agreement between CTC-California and AT&T Wireless, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 841, filed April 29, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 36**
[3674] **Res T-16851 - Citizens Telecommunications of California Inc. (CTC-California).**
This resolution approves an Interconnection Agreement between CTC-California and SureWest Wireless, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 838, filed April 28, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

- 37**
[3675] **Res T-16854 - Verizon California, Inc. (Verizon).**
This resolution limits liability of utility related to outages or the provision commercial power when the provision of commercial power is necessary to provide service to the customer. (Advice Letter (AL) 10845, filed April 26, 2004. Supplemented by AL 10845A, filed May 5, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 38**
[3676] **Res T-16850 - Verizon California, Inc. (Verizon).**
This resolution approves an Interconnection Agreement between Verizon and Paxio, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 10849, filed April 30, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 39**
[3677] **Res W-4482 - Yerba Buena Water Company (YBWC).**
This resolution grants YBWC's request to secure a loan in the amount of \$50,000 and to encumber its assets in connection with the loan. (Advice Letter 28, filed May 6, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 40**
[3678] **Res W-4483 - Suburban Water Systems (SWS), San Jose Hills and Whittier La Mirada Districts.**
This resolution authorizes SWS, San Jose Hills and Whittier La Mirada Districts surcharges in each district to recover under-collections in purchased water, pump tax, and purchased power balancing accounts producing additional annual revenues of \$3,035,681 for those combined districts. (Advice Letter (AL) 232-W, filed March 17, 2003, supplemented by AL 232-W-A, filed June 16, 2003 and AL 232-W-B, filed June 1, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

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- 41**
[3679] **Res W-4484 - Tahoe Swiss Village Utilities - Glenridge District (TSVU-G).**
This resolution authorizes a general rate increase producing additional annual revenues of \$2,823 or 16.67% in 2003, a 1.9% increase in rates based on the 2003 Consumer Price Index, a one-time surcharge of \$415 for Department of Health Services fees in each district, and the establishment of a late payment charge.
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 42**
[3683] **A02-11-057 - Point Arena Water Works, Inc.**
This decision approves the rate case stipulation and decides the one remaining issue. This proceeding is closed.
(Comr Wood - ALJ Bushey)
Outcome Held (8/19/04, Regular Agenda. For alternate.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 43**
[3686] **Res E-3877 - Pacific Gas and Electric Company (PG&E).**
This resolution extends three biomass energy contracts for PG&E that were previously authorized by the Commission in Resolution E-3853. (Advice Letter 2506-E, filed March 10, 2004)
Outcome Approved (Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to join Comr. Lynch's dissent.)
Yes: (Brown, Kennedy, Peevey)
No: (Lynch, Wood)
Abstain: (none)
Absent: (none)
- 44**
[3687] **Res E-3882 - Pacific Gas and Electric Company (PG&E).**
PG&E requests approval of Adoption of Proposed Summer Demand Response Reduction Programs in response to Assigned Commissioner's Ruling on June 4, 2004. (Advice Letter 2523-E, filed June 14, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
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45

[3692]

A04-03-032 - Frazier Mountain Internet Service, Inc.

This decision grants Frazier Mountain Internet Service, Inc. a certificate of public convenience and necessity to provide resold and UNE-P facilities-based local exchange telecommunications services. This proceeding is closed.

(Comr Kennedy - ALJ Prestidge)

Outcome Signed

[D04-07-020](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

46

[3698]

Res TL-19045

This resolution authorizes designated employees of the Consumer Protection and Safety Division to exercise the powers of arrest of a peace officer and the power to serve warrants pursuant to Penal Code §830.11 and Public Utilities Code §308.5.

Outcome Held (8/19/04, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Regular Agenda

Energy Orders

47

[2910]

A03-05-012 - Pacific Gas and Electric Company (PG&E).

PG&E seeks Commission approval pursuant to Pub. Util. Code §851 of certain licenses and leases of PG&E property already in effect (the “agreements” or “transactions”). In total PG&E seeks approval of 256 transactions. Most of these agreements were entered into several years ago. Each permits various uses of PG&E property by third parties. The transactions did not have prior approval of the Commission pursuant to Pub. Util. Code §851. PG&E states that it discovered many of these agreements in various branch office files while conducting an extensive search in the PG&E bankruptcy proceeding. Because the 256 transactions may implicate environmental review or may not meet the criteria for General Order (GO) 69-C transactions, PG&E states that it decided it would be prudent to seek formal approval of the transactions under Section 851. In addition, PG&E asserts that Commission environmental review under the California Environmental Quality Act (CEQA) is unnecessary because the majority of the transactions fit within CEQA exemptions, nine received adequate local CEQA review, and six pre-date CEQA and are thus not subject to its requirements. This decision grants Section 851 approval for 255 of the transactions on a prospective basis. The Commission notes one of the transactions fits within recent Commission decisions finding agreements allowing floating boat docks as appropriate under GO 69-C. Therefore, Commission's approval here is not required. The decision declines to impose a penalty for failure to obtain prior approval of the transactions. With respect to CEQA, the Commission notes that because all of the agreements are several years old, any activity which may have warranted Commission's environmental review has long since occurred. Accordingly, Commission's CEQA review at this time has little value for practical purposes. Nevertheless, the Commission will address the CEQA issues raised by PG&E and determine where possible, the applicability of the claimed exemptions. This proceeding is closed. (Comr Kennedy - ALJ Walker)

Agenda 3124, Item 42 12/4/2003 (Kennedy);

Agenda 3127, Item 18 1/22/2004 (Wood);

Agenda 3128, Item 30 2/11/2004 (Wood);

Agenda 3130, Item 36 3/16/2004 (Lynch);

Agenda 3131, Item 24 4/1/2004 (Lynch);

Agenda 3133, Item 34 5/6/2004 (Kennedy);

Agenda 3135, Item 19 6/9/2004 (Peevey)

Outcome Signed (Comr. Kennedy will file a concurrence. Comr. Lynch reserves the right to file a dissent. Comr. Wood will file a dissent.)

[D04-07-021](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

47a

[3306]

ALTERNATE TO ITEM 2910

This alternate differs from the Proposed Decision in the manner in which CEQA concerns are resolved and in its retroactive treatment of the leases. The Proposed Decision approved the leases on a going-forward basis, while declaring them to be void for periods prior to the approval. In response to comments, the ALJ reversed that position, proposing that the Commission grant a retroactive exemption for the leases, pursuant to Section 853. The alternate adheres to the ALJ's original position on this issue.

(Comr Wood)

Agenda 3130, Item 36a 3/16/2004 (Lynch);

Agenda 3131, Item 24a 4/1/2004 (Lynch);

Agenda 3133, Item 34a 5/6/2004 (Kennedy);

Agenda 3135, Item 19a 6/9/2004 (Peevey)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

48

[3268]

A02-05-004 - Southern California Edison Company (SCE).

I02-06-002 - Related matters. SCE's test year revenue requirement is established, a late payment charge and adjustments to other service charges are approved, a post-test year ratemaking mechanism is approved, 1997-98 capital additions are approved, and proposals for performance incentives are denied.

(Comr Wood - ALJ Wetzell)

Agenda 3130, Item 41 3/16/2004 (Wood);

Agenda 3131, Item 29 4/1/2004 (Kennedy);

Agenda 3132, Item 37 4/22/2004 (Kennedy);

Agenda 3133, Item 36 5/6/2004 (Peevey);

Agenda 3134, Item 34 5/27/2004 (Wood);

Agenda 3135, Item 20 6/9/2004 (Peevey)

Outcome Defeated

Yes: (Brown, Lynch)

No: (Kennedy, Peevey, Wood)

Abstain: (none)

Absent: (none)

48a

[3269]

ALTERNATE TO ITEM 3268

This alternate differs from the Proposed Decision in 3 ways, none of which affect the revenue requirement:

1. It modifies Section 5.5 Service Guarantees to adopt ORA's proposed 8-part service standard.
2. It modifies Section 6.2.7 Employee Compensation Issues to point out weaknesses in the current Total Compensation Study methodology, order SCE to develop a new study for the next GRC, and adopt Greenlining's proposal to require SCE to annually report to the Commission on total compensation to its ten most highly-compensated employees.
3. It modifies Section 13.2 The Case for Performance Incentives. CCUE had proposed benchmarks and incentives. SCE and CCUE then reached a settlement adopting modified benchmarks and incentives. The PD rejects both, stating that incentives are inconsistent with Cost of Service ratemaking. The alternate adopts CCUE's proposal.

There are changed Findings, Conclusions and Ordering Paragraphs to match these text changes. In all other respects, the drafts are the same.

(Comr Wood)

Agenda 3130, Item 41a 3/16/2004 (Wood);

Agenda 3131, Item 29a 4/1/2004 (Kennedy);

Agenda 3132, Item 37a 4/22/2004 (Kennedy);

Agenda 3133, Item 36a 5/6/2004 (Peevey);

Agenda 3134, Item 34a 5/27/2004 (Wood);

Agenda 3135, Item 20a 6/9/2004 (Peevey)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

48b

[3516]

ALTERNATE TO ITEM 3268

I02-06-002 - Related matters. This Alternate Decision of Commissioner Kennedy makes changes to the Proposed Decision of ALJ Wetzell and does not incorporate any modifications from Commissioner Wood's Alternate Decision. Additionally, the changes made to ALJ Wetzell's PD represent an increase in SCE's current rate base of \$129 million. Specifically, this Alternate Decision would change the Proposed Decision by:

Modifying Section 4.5 to increase Transmission and Distribution Operation and Maintenance Expenses by \$1.9 million.

Modifying Section 5.2.3.4 to fully fund the Economic and Business Development Program - \$2.514 million.

Modifying Section 5.4.2 to grant Edison's request to recover \$10.8 million associated with Real Time Energy Metering;

Modifying Section 6.5.2 to increase Information Technology Expenses by \$9.969 million.

Modifying Section 6.5.3 to increase Information Technology Capital Expenditures by \$6 million.

Modifying Section 8.5 to reduce TURN's proposal to treat customer deposits as an offset to rate base to the 1996 - 2001 five-year average of \$80 million rather than the PD's use of a 2000 - 2001, 13 month average of \$117 million.

Modifying Section 9.2 to approve SCE's request for an increase in depreciation rates for certain accounts.

(Comr Kennedy)

Agenda 3133, Item 36b 5/6/2004 (Peevey);

Agenda 3134, Item 34b 5/27/2004 (Wood);

Agenda 3135, Item 20b 6/9/2004 (Peevey)

Outcome Signed (Comr. Lynch reserves the right to file a dissent. Comr. Wood will file a concurrence.)

[D04-07-022](#)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

49

[3366]

A99-03-039 - Pacific Gas and Electric Company (PG&E).

This decision concludes the reasonableness review of PG&E's Safety and Reliability Enhancement Funds Balancing Account. It allows PG&E to recover a portion of the charges as provided by Pub. Util. Code §368(e). This proceeding is closed.

(Comr Kennedy - ALJ Long)

Agenda 3132, Item 42 4/22/2004 (Kennedy);

Agenda 3133, Item 40 5/6/2004 (Kennedy)

Outcome Held (8/19/04. Possible alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

50

[3431]

A02-11-017 - Pacific Gas and Electric Company (PG&E).

For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges to gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. This interim decision addresses Storm and Reliability issues raised in PG&E's Test Year 2003 General Rate Case.

(Comr Peevey - ALJ Halligan)

Agenda 3133, Item 42 5/6/2004 (Wood);

Agenda 3134, Item 37 5/27/2004 (Wood)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

50a

[3697]

ALTERNATE TO ITEM 3431

This alternate differs from the proposed decision in only one respect. It approves, with modifications, the Joint Proposal by PG&E/CUE for a reliability performance incentive mechanism.

(Comr Wood)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

51

[3442]

A00-06-010 - Pacific Gas and Electric Company.

This decision grants Section 851 approval on a prospective basis for 78 agreements and denies Section 851 approval for 27 agreements that have terminated or relate to property that has been sold. This proceeding is closed.

(Comr Wood - ALJ Kenney)

Agenda 3133, Item 45 5/6/2004 (Kennedy);

Agenda 3135, Item 23 6/9/2004 (Kennedy)

Outcome Signed (Comr. Lynch reserves the right to file a dissent.)

[D04-07-023](#)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

52

[3591]

R02-10-001 - Order Instituting Rulemaking on the establishment of a public purpose program surcharge pursuant to Assembly Bill (AB) 1002.

This decision implements Assembly Bill 1002, establishing a natural gas surcharge to fund public purpose programs. This decision addresses matters including customer exemptions, formulas for calculating surcharge rates, accrual of interest on surcharge revenues, and accounting matters. The decision approves, subject to modifications, Pacific Gas and Electric Company's Advice Letter 2440-G, identifying surcharge balancing accounts. This decision also initiates a public interest research and development (R&D) program for gas that appoints the California Energy Commission as administrator, establishes criteria for R&D projects, and sets R&D funding at an initial amount of \$12 million for 2004, with the potential for R&D budget increases in later years. This proceeding is closed. (Comr Lynch - ALJ DeBerry)

Outcome Held (8/19/04, Consent Agenda. For further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

53

[3602]

A04-01-040 - Southern California Gas Company (SoCalGas).

This decision grants SoCalGas' unopposed application for authorization pursuant to Pub. Util. Section 851 to convey an easement to Southern California Edison Company on property located in Santa Clarita, California, which is the site for the SoCalGas Honor Rancho underground gas storage field.

This proceeding is closed.

(Comr Kennedy - ALJ Prestidge)

Outcome Signed[D04-07-024](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

54

[3640]

R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and Decision 01-09-060.

This decision denies Petition to Modify D03-04-057 filed by SBC Services, University of California, and California Large Energy Consumers Association. This decision also denies Petition to Modify D02-03-055 filed by Southern California Edison. This decision adopts Direct Access Load Growth Principles based on workshop held March 11, 2004.

(Comr Brown, Comr Wood - ALJ Pulsifer)

Outcome Signed (Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a dissent.)

[D04-07-025](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

55

[3644]

A02-07-022 - San Diego Gas & Electric Company.

This decision certifies the Final Environmental Impact Report as the Environmental Impact Report (EIR) for the transmission line facilities that are the subjects of this application. The decision certifies the EIR for use by responsible agencies in considering subsequent approvals for the project, or for portions thereof. This proceeding is closed.

(Comr Lynch - ALJ Malcolm)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

55a

[3701]

ALTERNATE TO ITEM 3644

This alternate adopts the Miguel Mission transmission project proposed by SDG&E. It accepts the current Commission policy regarding Electric Magnetic Fields.

(Comr Kennedy)

Outcome Signed (Comr. Lynch reserves the right to file a dissent.)

[D04-07-026](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

56

[3645]

A02-09-043 - Pacific Gas and Electric Company (PG&E).

This decision grants a CPCN for PG&E's 230 kV Jefferson-Martin transmission project. The authorized route is a hybrid combination of the underground Route Option 1B, a portion of PG&E's proposed above ground segment, and PG&E's proposed underground segment with Route Option 4B, subject to alteration of the northern segment based on additional environmental review. This proceeding is closed.

(Comr Lynch - ALJ TerKeurst)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

56a

[3667]

ALTERNATE TO ITEM 3645

This alternate differs from the proposed decision in that it limits consideration of alternate transmission routes to routes that already have been reviewed in the Final Environmental Impact Report. In addition, the alternate decision accepts the current Commission policy regarding Electric Magnetic Fields.

(Comr Peevey)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

57

[3657]

A03-03-043 - Southern California Edison Company (SCE).

SCE requests a Permit to Construct a new substation in the City of Lake Forest and certain new transmission facilities through the City of Mission Viejo. SCE refers to the proposed new facilities as the Viejo System Project. This order grants the permit as the project described in the Final Mitigated Negative Declaration (FMND) and certifies the FMND. This proceeding is closed.

(Comr Kennedy - ALJ Malcolm)

Outcome Signed ((Vote to hold the this item was defeated 3-2; Lynch and Wood voted in favor.) Comr. Lynch will file a dissent. Comr. Wood will file a dissent.)

[D04-07-027](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

58
[3690]

R04-04-003 - Order Instituting Rulemaking to promote policy and program coordination and integration in electric utility resource planning.

This decision addresses transmission congestion and reliability issues specified in the Assigned Commissioner's Ruling filed June 10, 2004.

(Comr Peevey)

Outcome Signed (Comr. Lynch reserves the right to file a dissent. Pres. Peevey reserves the right to join Comr. Wood's concurrence. Comr. Wood reserves the right to file a concurrence.)

[D04-07-028](#)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

59
[3691]

R04-04-026 - Order Instituting Rulemaking to Implement the California Renewables Portfolio Standard Program.

This decision adopts least-cost, best-fit evaluation criteria for use in the 2004 RPS solicitation and directs the utilities to issue revised requests for offers for eligible renewable resources consistent with this decision and their approved renewable procurement plans.

(Comr Peevey - ALJ Halligan)

Outcome Signed

[D04-07-029](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

60
[3699]

R _____ - Order Instituting Rulemaking to update the Commission's policies and procedures related to electromagnetic fields emanating from regulated utility facilities.

The Commission's current policies and procedures in this area predate research findings recently submitted to the Commission by the California Department of Health Services as well as a decision of the California Supreme Court concerning the extent of the Commission's jurisdiction related to electromagnetic field issues. This proceeding will reconsider the Commission's policies and procedures in light of these events and in light of the utilities' experiences in implementing existing policy.

Outcome Held (8/19/04. Possible alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

112 (Rev.)
[3715]

R04-01-025 - Order Instituting Rulemaking to establish policies and rules to ensure reliable, long-term supplies of natural gas to California.

This decision addresses the Ratepayers for Affordable Clean Energy's appeal of categorization of Phase I of R04-01-025 as a quasi-legislative proceeding. This matter is added to the agenda pursuant to Govt. Code §11125.3(a)(2) and Public Utilities Code §306(b).

(Comr Kennedy, Comr Peevey - ALJ Wong)

07/07/2004 - This revision was not shown on the Agenda mailed to the public.

06/30/2004 - This item was not listed on the agenda distributed to the public.

Outcome Signed ((Voted 5-0 to add this item to the agenda late pursuant to Govt. Code Section 11125.3(a)(2) and PUCode Section 306(b).) Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a concurrence.)

[D04-07-030](#)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

Energy Resolutions and Written Reports**61**

[3544]

Res E-3866

Certification to the Securities and Exchange Commission (SEC) whether the California Public Utilities Commission has the resources and authority to safeguard the interests of California customers of PacifiCorp, an indirect utility subsidiary of ScottishPower plc, a holding company registered with the SEC under the Public Utility Holding Company Act of 1935, as amended (PUHCA or the Act), 15 U.S.C. §§79a, et seq.

Agenda 3135, Item 28 6/9/2004 (Lynch)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

61a

[3588]

ALTERNATE TO ITEM 3544

The Commission certifies to the Securities and Exchange Commission (SEC) that the California Public Utilities Commission has the resources and authority to safeguard the interests of California customers of PacifiCorp, an indirect utility subsidiary of ScottishPower plc, a holding company registered with the SEC under the Public Utility Holding Company Act of 1935, as amended (PUHCA or the Act), 15 U.S.C. §§79a, et seq. pursuant to the conditions imposed.

Agenda 3135, Item 28a 6/9/2004 (Lynch)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

62

[3617]

Res E-3831 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).

PG&E, SCE, and SDG&E filed tariffs in compliance with Ordering Paragraph 17 of D03-04-030 to implement the Departing Load Customer Generation Cost Responsibility Surcharge effective on filing subject to post-filing review by the Energy Division. These Advice Letters are approved with modifications. (PG&E Advice Letter (AL) 2375-E, filed April 17, 2003, Supplemental AL 2375-E-A, filed May 5, 2003; SCE AL 1700-E, filed April 17, 2003; and SDG&E AL 1488-E, filed April 17, 2003)

Outcome Approved (Comr. Wood reserves the right to file a dissent.)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

63

[3633]

Res E-3873 - San Diego Gas & Electric Company (SDG&E).

SDG&E requests approval of its Low Income Energy Efficiency funding for assistance with Cool Zone Centers. Request granted as modified. (Advice Letter 1584-E, filed April 9, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

64

[3642]

Res E-3869 - San Diego Gas & Electric Company (SDG&E).

SDG&E submits an Advice Letter to increase electric transmission rates effective October 1, 2003, pursuant to the Federal Energy Regulatory Commission's May 2, 2003 order in Docket ER03-601-000. SDG&E's request is approved with modifications and requires bill credits. (Advice Letter 1526-E, filed September 26, 2003)

Outcome Approved (Comr. Lynch will file a concurrence.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

65

[3646]

Res E-3875 - Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).

PG&E, SCE, and SDG&E request approval of Agency Agreements with the California Department of Water Resources for the implementation of the California Consumer Power and Conservation Financing Authority Demand Reserves Partnership Program. (PG&E Advice Letter (AL) 2505-E, SCE AL 1720-E-A, and SDG&E AL 1512-E-A, filed May 10, 2004)

Outcome Held (8/19/04. Possible alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

66

[3685]

Res E-3881 - Southern California Edison Company (SCE).

SCE request approval of Modifications to the Demand Response Goals and Programs for Large Customers as authorized by Administrative Law Judge Ruling issued on June 2, 2004. (Advice Letter 1805-E, filed June 14, 2004)

Outcome Approved as Modified ((Voted 3-2 to strike direct access buy down language; Pres. Peevey and Comr. Kennedy dissented. Clanon to work with Comr. Brown on language change.) Comr. Wood will file a concurrence.)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

67

[3688]

Res E-3879 - Southern California Edison Company (SCE).

This resolution addresses SCE's request to re-open schedule 20/20 for commercial and industrial customers on time-of-use rate schedules, expand the AB970 Smart Thermostat Program and increase enrollment in the Residential Air Conditioning Cycling Program to mitigate peak demand during the Summer of 2004. (Advice Letter 1804-E, filed June 8, 2004)

Outcome Approved (Comr. Lynch will file a concurrence. Comr. Wood will file a concurrence.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Orders**68**

[2636]

R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.

I01-09-002 - Related matters. This proposed decision addresses Phase 2B audit issues. The proposed decision sustains most of the findings of an audit of Pacific's intrastate financial results for the period 1997-1999 that were considered during Phase 2B. Despite the audit adjustments, this decision, read in combination with the findings reached by the Commission in Phase 2A of this proceeding, does not increase Pacific's earnings to a level requiring it to make refunds to its ratepayers.

(Comr Kennedy - ALJ Thomas)

Agenda 3123, Item 40 11/13/2003 (Staff);

Agenda 3125, Item 70 12/18/2003 (Staff);

Agenda 3126, Item 57 1/8/2004 (Kennedy);

Agenda 3129, Item 31 2/26/2004 (Wood);

Agenda 3131, Item 39 4/1/2004 (Staff);

Agenda 3134, Item 45 5/27/2004 (Staff);

Agenda 3135, Item 30 6/9/2004 (Kennedy)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

68a

[2637]

ALTERNATE TO ITEM 2636

I01-09-002 - Related matters. This alternate resolves Phase 2B audit issues. This alternate, read in combination with the findings in D04-02-063, does not increase Pacific's earnings to a level requiring it to make refunds to its ratepayers. The alternate proposed decision accepts Pacific's claim of lawyer-client confidentiality concerning certain information, but prohibits the booking of contingent liability accruals that rely on that information. The alternate proposed decision denies Pacific's request to recover audit costs because of its failure to cooperate with the audit. The alternate orders corrections to the regulatory accounts concerning the booking of Local Number Portability costs and reducing the levels of authorized "Cash Working Capital." The alternate also orders Pacific to make other error-correcting adjustments, with the timing of the adjustments consistent with GAAP (which was previously adopted by this Commission to guide telecommunications accounting).

(Comr Kennedy)

Agenda 3123, Item 40a 11/13/2003 (Staff);

Agenda 3125, Item 70a 12/18/2003 (Staff);

Agenda 3126, Item 57a 1/8/2004 (Kennedy);

Agenda 3129, Item 31a 2/26/2004 (Wood);

Agenda 3131, Item 39a 4/1/2004 (Staff);

Agenda 3134, Item 45a 5/27/2004 (Staff);

Agenda 3135, Item 30a 6/9/2004 (Kennedy)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

69

[3199]

I02-06-003 - Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless and related entities (collectively Cingular) to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an early termination fee and other penalties from customers.

This modified decision finds that Cingular's corporate practice and policy from January 2000 to April 31, 2002 violated (1) Pub.Util.Code §451 and D95-04-028 because it allowed no trial of its wireless service and prohibited early termination of wireless service contracts unless the customer paid an early termination fee of \$150 or more, even though testing wireless service by using the phone is the best way for a customer to ascertain whether the service meets his or her needs, and (2) violated §§451, 702 and 2896 and D95-04-028 because it failed to disclose known network problems during 2001 and, in spite of these problems, continued to prohibit refunds/returns and require early termination fees for early cancellation of wireless service contracts. Decision orders a penalty of \$12,140,000 and requires reparations to customers. This modified decision addresses the issues raised by the Commission's Consumer Protection and Safety Division, Utility Consumers Action Network, and Cingular in their appeals to the Presiding Officer's Decision filed October 9, 2003. This proceeding is closed.

(Comr Wood - ALJ Vieth)

Agenda 3128, Item 48 2/11/2004 (Kennedy);

Agenda 3131, Item 45 4/1/2004 (Kennedy);

Agenda 3133, Item 50 5/6/2004 (Staff);

Agenda 3134, Item 47 5/27/2004 (Peevey)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

70

[3523]

A01-02-024 - AT&T Communications of California, Inc. and WorldCom, Inc.

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This decision adopts revised monthly recurring unbundled network element (UNE) rates for several UNEs that Pacific Bell Telephone Company dba SBC-California sells to competitive local exchange carriers. The UNEs for which revised monthly recurring rates are adopted are loops (including 2-wire, DS-1 and DS-3), switching, dedicated transport, signaling system 7 (SS7) links, and the DS-3 entrance facility without equipment. The rates in today's order replace interim rates for loops and switching that were set in D02-05-042 and replace rates for other UNEs originally adopted in D99-11-050. This order adopts a statewide average 2-wire loop rate of \$12.92 and a flat rate for switching usage of \$2.64 per port. These rates result in a UNE-Platform rate of \$16.90 per month. The Commission sets these rates based on the average of the results of the models proposed by SBC-CA and the HAI Model, Version 5.3, proposed by AT&T Communications of California and WorldCom, Inc. An average of the two competing models is used based on the finding that both models are flawed. These proceedings are closed.

(Comr Wood - ALJ Duda)

Agenda 3135, Item 33 6/9/2004 (Peevey)

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

70a

[3524]

ALTERNATE TO ITEM 3523

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This alternate decision adopts revised monthly recurring unbundled network element (UNE) rates for several UNEs that Pacific Bell Telephone Company dba SBC-California sells to competitive local exchange carriers. The alternate adopts a statewide average 2-wire loop rate of \$13.26 and a flat rate for switching usage of \$2.77 per port. These rates result in a UNE-Platform rate of \$17.38 per month. The rates are based on the average of the results of the models proposed by SBC-CA and the HAI Model, Version 5.3, proposed by AT&T Communications of California and WorldCom Inc. An average of the two competing models is used based on the finding that both models are flawed. This alternate incorporates inflation factors into the SBC-CA model and it assumes the use of 60% Integrated Digital Loop Carrier equipment as a modeling input.

(Comr Wood)

Agenda 3135, Item 33a 6/9/2004 (Peevey)

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

71 (Rev.)

[3641]

R03-08-019 - Order Instituting Rulemaking on the Commission's own motion to amend General Order 77-K.

This decision adopts General Order (GO) 77-L. GO 77-L supersedes GO 77-K with revised rules for filing utility employee compensation data. The joint petition of Pacific Gas and Electric Company and the Greenlining Institute/Latino Issues Forum to modify the rulemaking is granted to the extent of expanding the scope of the rulemaking, as described in the order.

(Comr Wood - ALJ Koss)

06/29/2004 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Water/Sewer Orders
72

[3099]

A02-07-021 - Southern California Water Company (SCWC).

In Interim Decision 03-05-001 on May 8, 2003, the Commission approved a settlement between the City of Santa Monica (City) and SCWC that conveyed SCWC water rights to the City and relieved SCWC from its participation in a number of pending lawsuits related to the Charnock Groundwater Basin. The issue of ratemaking treatment of the settlement proceeds and the issue of contamination payments made to SCWC by oil companies were deferred to this phase of the proceeding. This decision resolves those issues. The application is closed.

(Comr Kennedy - ALJ Walker)

Agenda 3127, Item 42 1/22/2004 (Lynch);

Agenda 3129, Item 37 2/26/2004 (Lynch);

Agenda 3131, Item 50 4/1/2004 (Wood);

Agenda 3132, Item 54 4/22/2004 (Staff);

Agenda 3133, Item 57 5/6/2004 (Wood);

Agenda 3134, Item 52 5/27/2004 (Brown);

Agenda 3135, Item 36 6/9/2004 (Brown)

Outcome Signed

[D04-07-031](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

72a

[3459]

ALTERNATE TO ITEM 3099

This Alternate Decision directs the Southern California Water Company to refund to ratepayers the net proceeds received from the City for SCWC's Charnock Basin cause of action, to remove relevant Charnock Basin assets from rate base in its current general rate case for the region, Application (A.) 03-10-006, to transfer net proceeds received from Potentially Responsible Parties (PRPs) with respect to the Charnock Basin contamination from Account 704 (purchased water) to Account 704.02 (purchased water balancing account) for later refund to ratepayers of the excess shown in Account 704.02, and to book future net proceeds to be received from PRPs with respect to the Charnock Basin contamination to Account 704.02 for later refund to ratepayers of the excess shown in Account 704.02.

(Comr Lynch)

Agenda 3132, Item 54a 4/22/2004 (Staff);

Agenda 3133, Item 57a 5/6/2004 (Wood);

Agenda 3134, Item 52a 5/27/2004 (Brown);

Agenda 3135, Item 36a 6/9/2004 (Brown)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

73

[3630]

A04-01-024 - F. Patrick Flynn & Joyce H. Flynn and California-Michigan Land and Water Company.

This decision grants authority to F. Patrick Flynn and Joyce H. Flynn to sell their outstanding shares of common stock of Mesa Crest Water Company (Mesa Crest), and to transfer the Mesa Crest water system to MCWC, Inc., a wholly owned subsidiary of California-Michigan Land and Water Company (Cal-Mich). Mesa Crest serves 710 connections in an area near the City of La Canada Flintridge in Los Angeles County. Cal-Mich operates the East Pasadena Water Company, which serves 2,802 connections in an area contiguous to Pasadena and San Marino in Los Angeles County. This application is closed.

(Comr Wood - ALJ Walker)

Outcome Signed[D04-07-032](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

74

[3643]

A01-09-071 - California Water Service Company (Cal Water).

This decision grants Cal Water a rate increase in the Salinas District and imposes penalties for three unauthorized service area acquisitions. This proceeding is closed.

(Comr Kennedy - ALJ Bushey)

Outcome Signed (Comr. Lynch reserves the right to file a dissent.)[D04-07-033](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

75

[3689]

A02-11-044 - San Gabriel Valley Water Company (San Gabriel).

The Commission authorizes San Gabriel a general rate increase. The Commission also removes \$2.6 million from ratebase related to the F-10 Treatment Plant for which San Gabriel received reimbursement from the County of San Bernardino. This proceeding is closed.

(Comr Peevey - ALJ Patrick)

Outcome Signed (Comr. Lynch reserves the right to file a dissent.)[D04-07-034](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

75a

[3693]

ALTERNATE TO ITEM 3689

This alternate decision differs from the ALJ Proposed Decision in two ways: 1) It adopts a cap using a 3 year average of the company's recorded plan additions for the period 2001-2003 and 2) The condemnation proceeds from the County of San Bernardino will be subject to an audit by Water Division staff and will be addressed in San Gabriel Fontana District's next GRC.

(Comr Brown)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

75b

[3694]

ALTERNATE TO ITEM 3689

This alternate decision grants an effective date of January 1, 2004 for rates that ultimately will be adopted in this proceeding for the San Gabriel Valley Water Company (Fontana Division).

(Comr Kennedy)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

76

[3702]

A04-06-020 - California-American Water Company (CalAm).

This decision addresses CalAm's application to increase certain water rates in its Monterey Division to promote water conservation and avoid State Water Resources Control Board order violations. This proceeding is closed.

(Comr Peevey - ALJ McVicar)

Outcome Signed (Comr. Lynch will file a concurrence.)

D04-07-035

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Transportation/Rail Safety Resolutions and Reports

77

Res TL-19040

[3360]

This resolution revises maximum rate tariff 4 (Max 4) to implement provisions of Assembly Bill 845.
Agenda 3132, Item 60 4/22/2004 (Staff);
Agenda 3133, Item 60 5/6/2004 (Kennedy);
Agenda 3134, Item 57 5/27/2004 (Kennedy)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Other Utility Resolutions and Reports**78**

[3354]

Res ALJ 184

This resolution adopts an annual process for setting and updating hourly rates for use by intervenors in seeking compensation for substantially contributing to a Commission decision, as provided in the statutory intervenor funding program. The hourly rates that the Commission establishes through this process will govern intervenors and their representatives who have recently participated in Commission proceedings, and will provide guidance to other intervenors and representatives.

Agenda 3132, Item 61 4/22/2004 (Staff);

Agenda 3133, Item 61 5/6/2004 (Wood);

Agenda 3134, Item 58 5/27/2004 (Wood);

Agenda 3135, Item 42 6/9/2004 (Peevey)

Outcome Held (8/19/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Legislative Matters**79 AB 426 (Cox, et al.)**

[3705] Local publicly owned electric utilities: cost responsibility surcharge.

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

80 AB 1329 (Levine)

[3707] Public Utilities Commission: gasoline and diesel.

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

81 AB 1647 (Horton)

[3704] Public water systems: mutual water companies: grant funds.

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

82 AB 1733 (Reyes, et al.)

[3708] Telecommunications: selling or licensing lists of subscribers.

Outcome Approved (Legislative Subcommittee Recommendation: support bill.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

83 AB 1908 (Canciamilla)

[3706] Water corporations.

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

84

[3503]

AB 2593 (Calderon)

Self-generation incentive program.

Agenda 3133, Item 79 5/6/2004 (Staff);

Agenda 3134, Item 69 5/27/2004 (Staff);

Agenda 3135, Item 51 6/9/2004

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

85

[3709]

SB 199 (Murray)

Wireless telephones: directories.

Outcome Approved (Legislative Subcommittee Recommendation: support bill.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

86

[3612]

SB 909 (Machado)

Public water systems: mutual water companies: grant funds.

Agenda 3135, Item 57 6/9/2004 (Staff)

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

87

[3506]

SB 1624 (Bowen)

Public Utilities Commission: Office of Ratepayer Advocates.

Agenda 3133, Item 82 5/6/2004 (Staff);

Agenda 3134, Item 76 5/27/2004 (Staff);

Agenda 3135, Item 60 6/9/2004 (Staff)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

88

[3653]

H.R. 4413 (Terry)

Federal Legislation: Proposed Liquefied Natural Gas (LNG) Import Terminal Development Act of 2004.

Outcome Approved (Legislative Subcommittee Recommendation: oppose bill.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

89

[3583]

Proposed Federal Legislation:

Staff Proposal for Federal Legislation to Strengthen California Rail Safety Standards.

Agenda 3134, Item 78 5/27/2004 (Staff);

Agenda 3135, Item 62 6/9/2004 (Staff)

Outcome Approved-Staff Recommendation

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Commissioner's Reports**90**

[3659]

President Peevey Report

Discussion of and action on the Electric Retail Market Reform Policy Statement, proposed by a subcommittee of the Energy Resources Conservation and Development Commission, the Consumer Power and Conservation Financing Authority, and the PUC. The Policy Statement articulates the basic framework of a core/noncore retail electric market structure that the three agencies can support before the Legislative and Executive Branches.

Outcome Held (8/19/04. Further consideration.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

91

[3712]

President Peevey Report

Selection of alternate for the Pacific Gas and Electric Company Stewardship Council.

Outcome Approved (Appointed Barbara Hale to replace Bill Ahern as alternate representative to Comr. Brown; Dan Adler appointed alternate to Barbara Hale.)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Lynch)

92

[3696]

Commissioner Wood Report

Request for Attorney General's opinion concerning the applicability of the California Environmental Quality Act to certain decisions pursuant to Public Utilities Code Section 851.

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the

Non-Federal

94

[3467]

R01-09-001 - Conference with Legal Counsel - Application for Rehearing

Disposition of Application for Rehearing of D03-10-088, filed by ORA and TURN. On October 30, 2003, the Commission issued an interim opinion regarding NRF Phase 2B Service Quality issues in regard to Pacific and Verizon. In this decision, the Commission found that neither Pacific's service quality nor Verizon's service quality had deteriorated under NRF.

Agenda 3133, Item 85 5/6/2004 (Kennedy);

Agenda 3134, Item 81 5/27/2004 (Kennedy)

Outcome Signed as Modified (Comr. Lynch will file a concurrence.)

D04-07-036

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

95

[3565]

R01-10-024 - Conference with Legal Counsel - Applications for Rehearing

Disposition of Applications for Rehearing of D04-01-050 filed by Cogeneration Association of California/Energy Producers and Users Coalition, Southern California Edison Company (SCE), San Diego Gas & Electric Company, Alliance for Retail Energy Markets, Constellation NewEnergy, Inc., and California Wind Energy Association, and Application for Rehearing of D03-12-062 filed by SCE. In D04-01-050 and D03-12-062, the Commission adopted a long-term regulatory framework under which California's electric utilities will plan for and procure the energy resources and demand-side investments necessary to ensure their customers receive reliable service at low and stable prices.

Agenda 3134, Item 82 5/27/2004 (Staff);

Agenda 3135, Item 64 6/9/2004 (Peevey)

Outcome Signed

D04-07-037

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

96

[3572]

A99-04-024 - Conference with Legal Counsel - Application for Rehearing

Disposition of Application of The Utility Reform Network for Rehearing of D04-02-025. The Decision authorized Southern California Edison Company to recover costs associated with certain capital additions added to rate base in 1997 and early 1998 for divested non-nuclear generation plant.

Agenda 3134, Item 83 5/27/2004 (Staff)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

97

[3601]

C98-04-004 - Conference with Legal Counsel - Application for Rehearing

C98-06-003; C98-06-027; C98-06-049; I90-02-047 - Related matters. Disposition of Applications for Rehearing of D03-11-021 filed by The Latino Issues Forum (LIF), The Utility Reform Network, and SBC California. On November 13, 2003, the Commission issued D03-11-021, awarding intervenor compensation to The Greenlining Institute and LIF for its contribution to D01-09-058.

Outcome Held (8/19/04)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

98

[3606]

A02-12-027 - Conference with Legal Counsel - Application for Rehearing

A02-12-028, I03-03-016 - Related matters. Disposition of the application for rehearing of D03-12-058 filed by Southern California Edison Company (SCE). D03-12-058 found Local 483 Utility Workers Union of America eligible for intervenor compensation under Chapter 9, Article 5, Section 1801, et seq., of the Public Utilities Code.

Agenda 3135, Item 66 6/9/2004 (Staff)

Outcome Held (8/19/04. Possible alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

99

[3670]

A03-07-032 - Conference with Legal Counsel - Application for Rehearing

Order disposing of application for rehearing of D04-03-037 filed by the Navajo Nation. In D04-03-037, the Commission approved changes to a previously approved Power Purchase Agreement between Southern California Edison Co. and Mountainview Power Co., LLC. FERC had conditioned its approval of the PPA upon the changes that were approved in D04-03-037.

Outcome Signed (Comr. Lynch will file a dissent.)

D04-07-038

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

100

[3680]

A98-12-005 - Conference with Legal Counsel - Application for Rehearing

Disposes of the applications for rehearing of D03-03-031 filed by Verizon California, Inc. and Southern California Edison. D03-03-031 modified D01-09-045, which resolved intervenor compensation requests by The Utility Reform Network, the Greenlining Institute and Latino Issues Forum, and Public Advocates, Inc. for substantial contributions to D03-03-031.

Outcome Signed

D04-07-039

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

101

[3682]

I04-04-024 - Conference with Legal Counsel - Application for Rehearing

Disposition of Application of Sound Energy Solutions for Rehearing of I04-04-024 and/or disposition of Request for Stay of I04-04-024. The Order institutes an investigation into the proposal of SES filed with the Federal Energy Regulatory Commission to construct a liquefied natural gas terminal in Long Beach, California.

Outcome Signed

D04-07-040

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

102

[3684]

R01-08-028 - Conference with Legal Counsel - Application for Rehearing

Disposition of Applications for Rehearing of Decision D03-12-060 filed by Women's Energy Matters (WEM), Residential Energy Service Companies' United Effort (RESCUE), and joint application of Consortium for Energy Efficiency, Inc. et al. R01-08-028 examines the Commission's future energy efficiency policies, administration and programs. D03-12-060 is an interim opinion adopting funding for the 2004-2005 energy efficiency programs and studies. D03-12-060 was modified in part by D04-02-059.

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

103

[3695]

R03-09-006 - Conference with Legal Counsel - Application for Rehearing

Disposition of Application of AT&T Wireless Services of California, LLC, Pacific Bell Wireless, LLC dba Cingular Wireless, Nextel of California, Inc., Sprint Spectrum S.P. d/b/a Sprint, Omnipoint Communications, Inc. dba T-Mobile, and Verizon Wireless apply for rehearing of D04-04-038. D04-04-038 resolves petitions to excuse utilities from the list of Respondents to a Rulemaking to consider rules governing utility construction contract process.

Outcome Held (8/19/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Personnel Matters

108

[3650]

Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee, including the appointment or employment of Executive Director.

Outcome Approved (Discussed and voted in Executive Session; reconvened Public Session to announce the appointment of Steve Larson to Executive Director effective 7/15/04.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)